

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SHAWN RODRIGUEZ,

Defendant.

CR-01-99-GF-BMM

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on February 20, 2020. (Doc. 85.)

When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 153-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on February 19, 2020. (Doc. 84.) The United States accused Rodriguez of violating his conditions of supervised

release 1) by using a controlled substance; 2) by failing to report for substance abuse treatment; and 3) by using amphetamines and methamphetamine. (Doc. 70 at 1-2.)

At the revocation hearing, Rodriguez admitted that he had violated the conditions of his supervised release 1) by using a controlled substance; 2) by failing to report for substance abuse treatment; and 3) by using amphetamines and methamphetamine. (84.) Judge Johnston found that Rodriguez's violations warrant revocation, and recommended that Rodriguez should receive a custodial sentence of time served, with 32 months of supervised release to follow. Judge Johnston also found that Rodriguez should be subject to the supervised release conditions imposed previously and the following two new conditions:

1. Rodriguez must take all of the mental health medications prescribed by his treating physicians; and
2. Rodriguez must submit his person, residence, vehicles, and papers to a search, with or without a warrant by any probation officer based on reasonable suspicion of contraband or evidence in violation of a condition of release. Failure to submit to search may be grounds for revocation. Rodriguez must warn any other occupants that the premises may be subject to searches pursuant to this condition. Rodriguez must allow seizure of suspected contraband for further examination. Doc. 85 at 4.)

Rodriguez waived his right to allocute before the undersigned and the 14 day right to appeal. (Doc. 84.)

The violations prove serious and warrant revocation of Rodriguez's supervised release. The Court finds no clear error in Judge Johnston's Findings and Recommendations.

Accordingly, **IT IS ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 85) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that Defendant Shawn Rodriguez be incarcerated for a sentence of time served, with 32 months of supervised release to follow. Rodriguez should be subject to the supervised release conditions imposed previously and the following two new conditions.

1. Rodriguez must take all of the mental health medications prescribed by his treating physicians; and
2. Rodriguez must submit his person, residence, vehicles, and papers to a search, with or without a warrant by any probation officer based on reasonable suspicion of contraband or evidence in violation of a condition of release. Failure to submit to search may be grounds for revocation. Rodriguez must warn any other occupants that the premises may be subject to searches pursuant to this condition.

Rodriguez must allow seizure of suspected contraband for further examination.

DATED this 24th day of February, 2020.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Brian Morris
United States District Court Judge